

AMENDED IN ASSEMBLY MAY 4, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 849**

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**Introduced by Assembly Member Bonilla**

February 26, 2015

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An act to ~~amend Sections 452 and 452.1 of~~ *add Section 452.5 to the Penal Code, relating to crime.*

LEGISLATIVE COUNSEL'S DIGEST

AB 849, as amended, Bonilla. ~~Unlawfully causing a fire: explosion.~~  
*Unlawful cannabinoid extraction: explosion.*

*Existing law provides that the possession for sale, the cultivation of, and the processing of, marijuana are felonies.*

*This bill would provide that a person who extracts, or attempts to extract, Tetrahydrocannabinol or other cannabinoids by means of solvent extraction from marijuana leaves, flowers, or stalks, and causes an explosion that damages property would be guilty of a misdemeanor, as specified. The bill would provide that if the explosion damages a structure or forest land the offense would be punishable by a misdemeanor or felony with specified penalties. The bill would provide for increased misdemeanor and felony penalties if the explosion damages an inhabited structure or causes great bodily injury. By creating new crimes, this bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~Existing law provides that a person is guilty of the crime of unlawfully causing a fire when he or she recklessly sets fire to or burns, or causes to be burned, a structure, forest land, or property. Unlawfully causing a fire that causes great bodily injury or causes an inhabited structure or inhabited property to burn, or unlawfully causing a fire of a structure or forest land is a felony punishable by imprisonment in the state prison or a county jail, as specified, and a fine, or both the fine and imprisonment. Unlawfully causing a fire of property is a misdemeanor, except as specified. Existing law also imposes sentence enhancements for those crimes, if specified circumstances apply, such as if emergency personnel suffer great bodily injury as a result of the offense.~~

~~This bill would revise those provisions to specify that they also apply to unlawfully causing an explosion. The bill would also provide that unlawfully causing a fire or an explosion that causes the contents of an inhabited structure or an inhabited property to burn or be damaged by an explosion is a felony punishable by imprisonment in the state prison for 2, 3, or 4 years, or by imprisonment in the county jail for not more than one year, or by a fine, or by both that imprisonment and fine. By expanding the scope of existing crimes and creating new crimes, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. Section 452.5 is added to the Penal Code, to read:*
- 2     *452.5. (a) A person who extracts, or attempts to extract,*
- 3     *Tetrahydrocannabinol or other cannabinoids by means of solvent*
- 4     *extraction from marijuana leaves, flowers, or stalks, and causes*
- 5     *an explosion that causes great bodily injury shall be punished by*
- 6     *imprisonment in a county jail for not more than one year, by*
- 7     *imprisonment for two, four, or six years, pursuant to subdivision*

1 *(h) of Section 1170 of the Penal Code, by a fine not exceeding ten*  
2 *thousand dollars (\$10,000), or by both imprisonment and that fine.*

3 *(b) A person who extracts, or attempts to extract,*  
4 *Tetrahydrocannabinol or other cannabinoids by means of solvent*  
5 *extraction from marijuana leaves, flowers, or stalks, and causes*  
6 *an explosion that damages an inhabited structure or inhabited*  
7 *property shall be punished by imprisonment in a county jail for*  
8 *not more than one year; by imprisonment for two, three, or four*  
9 *years, pursuant to subdivision (h) of Section 1170 of the Penal*  
10 *Code, by a fine not exceeding ten thousand dollars (\$10,000), or*  
11 *by both imprisonment and that fine.*

12 *(c) A person who extracts, or attempts to extract,*  
13 *Tetrahydrocannabinol or other cannabinoids by means of solvent*  
14 *extraction from marijuana leaves, flowers, or stalks, and causes*  
15 *an explosion that damages a structure or forest land shall be*  
16 *punished by imprisonment in a county jail for not more than six*  
17 *months, by imprisonment for 16 months, or two or three years,*  
18 *pursuant to subdivision (h) of Section 1170 of the Penal Code, by*  
19 *a fine not exceeding ten thousand dollars (\$10,000), or by both*  
20 *imprisonment and that fine.*

21 *(d) A person who extracts, or attempts to extract,*  
22 *Tetrahydrocannabinol or other cannabinoids by means of solvent*  
23 *extraction from marijuana leaves, flowers, or stalks, and causes*  
24 *an explosion that results in damage to property is guilty of a*  
25 *misdemeanor; provided however, that this subdivision shall not*  
26 *apply in the instance when the explosion damages only the person's*  
27 *own personal property, unless there is injury to another person,*  
28 *or another person's structure, forest land, or property.*

29 *SEC. 2. No reimbursement is required by this act pursuant to*  
30 *Section 6 of Article XIII B of the California Constitution because*  
31 *the only costs that may be incurred by a local agency or school*  
32 *district will be incurred because this act creates a new crime or*  
33 *infraction, eliminates a crime or infraction, or changes the penalty*  
34 *for a crime or infraction, within the meaning of Section 17556 of*  
35 *the Government Code, or changes the definition of a crime within*  
36 *the meaning of Section 6 of Article XIII B of the California*  
37 *Constitution.*

38 ~~SECTION 1. Section 452 of the Penal Code is amended to~~  
39 ~~read:~~

1     ~~452. A person is guilty of unlawfully causing a fire or an~~  
2 ~~explosion when he or she recklessly sets fire to, burns, causes to~~  
3 ~~be burned, or causes an explosion within or on any structure, forest~~  
4 ~~land or property.~~

5     ~~(a) Unlawfully causing a fire or an explosion that causes great~~  
6 ~~bodily injury is a felony punishable by imprisonment in the state~~  
7 ~~prison for two, four or six years, or by imprisonment in the county~~  
8 ~~jail for not more than one year, or by a fine, or by both that~~  
9 ~~imprisonment and fine.~~

10   ~~(b) Unlawfully causing a fire or an explosion that causes an~~  
11 ~~inhabited structure or inhabited property, or its contents, to burn~~  
12 ~~or to be damaged by an explosion is a felony punishable by~~  
13 ~~imprisonment in the state prison for two, three or four years, or by~~  
14 ~~imprisonment in the county jail for not more than one year, or by~~  
15 ~~a fine, or by both that imprisonment and fine.~~

16   ~~(c) Unlawfully causing a fire to, or an explosion on or of a~~  
17 ~~structure or on forest land is a felony punishable by imprisonment~~  
18 ~~in the state prison for 16 months, two or three years, or by~~  
19 ~~imprisonment in the county jail for not more than six months, or~~  
20 ~~by a fine, or by both that imprisonment and fine.~~

21   ~~(d) Unlawfully causing a fire to, or an explosion on, property~~  
22 ~~is a misdemeanor. For purposes of this paragraph, unlawfully~~  
23 ~~causing a fire to, or an explosion on, property does not include one~~  
24 ~~burning, causing to be burned, or causing an explosion on his or~~  
25 ~~her own personal property unless there is injury to another person~~  
26 ~~or to another person's structure, forest land or property.~~

27   ~~(e) If a person is convicted of violating this section while he or~~  
28 ~~she is confined in a state prison, prison road camp, prison forestry~~  
29 ~~camp, or other prison camp or prison farm, or while he or she is~~  
30 ~~confined in a county jail while serving a term of imprisonment for~~  
31 ~~a felony or misdemeanor conviction, the sentence imposed for a~~  
32 ~~violation of this section shall be consecutive to the sentence for~~  
33 ~~which the person was confined.~~

34   ~~SEC. 2. Section 452.1 of the Penal Code is amended to read:~~

35   ~~452.1. (a) Notwithstanding any other law, any person who is~~  
36 ~~convicted of a felony violation of Section 452 shall be punished~~  
37 ~~by a one-, two-, or three-year enhancement for each of the~~  
38 ~~following circumstances that is found to be true:~~

39   ~~(1) The defendant has been previously convicted of a felony~~  
40 ~~violation of Section 451 or 452.~~

1     ~~(2) A firefighter, peace officer, or other emergency personnel~~  
2 ~~suffered great bodily injury as a result of the offense. The additional~~  
3 ~~term provided by this subdivision shall be imposed whenever~~  
4 ~~applicable, including any instance in which there is a violation of~~  
5 ~~subdivision (a) of Section 452.~~

6     ~~(3) The defendant proximately caused great bodily injury to~~  
7 ~~more than one victim in any single violation of Section 452. The~~  
8 ~~additional term provided by this subdivision shall be imposed~~  
9 ~~whenever applicable, including any instance in which there is a~~  
10 ~~violation of subdivision (a) of Section 452.~~

11     ~~(4) The defendant proximately caused multiple structures to~~  
12 ~~burn or be damaged by an explosion in a single violation of Section~~  
13 ~~452.~~

14     ~~(b) The additional term specified in subdivision (a) shall not be~~  
15 ~~imposed unless the existence of a fact required under this section~~  
16 ~~is alleged in the accusatory pleading and either admitted by the~~  
17 ~~defendant in open court or found to be true by the trier of fact.~~

18     ~~SEC. 3. No reimbursement is required by this act pursuant to~~  
19 ~~Section 6 of Article XIII B of the California Constitution because~~  
20 ~~the only costs that may be incurred by a local agency or school~~  
21 ~~district will be incurred because this act creates a new crime or~~  
22 ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
23 ~~for a crime or infraction, within the meaning of Section 17556 of~~  
24 ~~the Government Code, or changes the definition of a crime within~~  
25 ~~the meaning of Section 6 of Article XIII B of the California~~  
26 ~~Constitution.~~